



United States Department of the Interior

MINERALS MANAGEMENT SERVICE

Washington, DC 20240

DEC 5 1996

Memorandum

To: Associate Director for Royalty Management Program
Associate Director for Policy and Management Improvement

From: Deputy Director *Barbara K. Kallay*

Subject: Docket Number MMS-92-0538-MIN General Chemical - Sodium Valuation

The guidance to the Royalty Management Program with respect to sodium valuation is as follows:

Issue 1: What is the value for royalty purposes of soda ash produced from Federal sodium leases and sold under contracts between subpartners?

The Board does not consider the subpartnership arrangements to be *bona fide* within the context of the solid mineral valuation regulation at 30 CFR 206.301. Therefore, MMS is not required under the rules to accept the contract price as value. However, because prices under subpartnership contracts are negotiated at arm's-length and are sufficiently market based, the net contract price may be accepted as the value for royalty purposes under the "other relevant factors" criterion of the regulations. Accordingly, RMP should not use a weighted-average method to value subpartnership sales volumes for royalty purposes.

Issue 2: How is value determined for royalty purposes for soda ash produced from Federal sodium leases and sold through ANSAC?

General should value production sold through ANSAC based on ANSAC's sales price less appropriate allowances. This value represents the proceeds accruing to General for the sale of soda ash.

Other Issues Affecting Sodium Producers:

The available dispositions for soda ash may also include: 1) arm's-length sales, 2) non-arm's-length sales and internal dispositions.

◦ **Arm's-length Sales:**

If the sales arrangements are considered *bona fide*, then MMS must accept the contract price less appropriate allowances as the value for royalty purposes.

◦ **Non-arm's-length Sales and Internal Dispositions:**

The value of soda ash for royalty purposes for non-arm's-length sales and internal consumption of production will be the weighted-average price calculated from all of the lessee's arm's-length domestic sales. The weighted-average price calculation shall not include either subpartnership (or other non-arm's-length sales) or ANSAC sales prices.

However, the value established in a non-arm's-length disposition may be considered in the determination of the value for royalty purposes if it is determined that the value is comparable to values found in arm's-length transactions occurring at the same time, in the same area, for similar quality and quantities.

Further, should a lessee enter into contracts with affiliates (other than ANSAC) for sales of soda ash in foreign markets outside of United States, the value for royalty purposes shall be the weighted-average price of all arm's-length foreign sales, including ANSAC and non-ANSAC sales.

However, as concluded for domestic non-arm's-length dispositions, the price contained in a non-arm's-length foreign disposition may be considered in the determination of value for royalty purposes if it is comparable to values found in arm's-length transactions occurring at the same time, in the same area, for similar quality and quantities.

Supplemental Guidance:

The issue regarding subpartnerships is unique to General. The guidance on Issue 2, regarding the valuation of ANSAC, and the guidance regarding the other sales dispositions which may affect sodium valuation, should form the basis for all similar situations pertaining to sales of soda ash by Federal lessees.